

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANDREW AVILA,) Case No.: 1:21-cv-1510 JLT BAM
Plaintiff,)
v.) ORDER ADOPTING IN FULL THE FINDINGS
FELDER, et al.,) AND RECOMMENDATIONS AND DISMISSING
Defendants.) CERTAIN CLAIMS AND DEFENDANTS
) (Doc. 40)
)
)

Andrew Avila seeks to hold the defendants liable for violations of his civil rights while Plaintiff was incarcerated at Kern Valley State Prison. (*See generally* Doc. 36.) The magistrate judge screened Plaintiff's second amended complaint pursuant to 28 U.S.C. § 1915A(a) and found he stated a cognizable claim against Michael Felder for deliberate indifference in violation of the Eighth Amendment but failed to state any other cognizable claims. (Doc. 37 at 5-10.) Plaintiff responded to the Screening Order by notifying the Court that he was willing to proceed only on the cognizable claim. (Doc. 39 at 1.)

The magistrate judge issued Findings and Recommendations, reiterating the findings in the Court's Screening Order, and recommending the action proceed on the cognizable claim. (Doc. 40 at 5-10.) Specifically, the magistrate judge recommended: (1) the action proceed "against Defendant Michael A. Felder for deliberate indifference to medical care in violation of the Eighth Amendment;" and (2) the Court dismiss all other claims and defendants. (*Id.* at 10.)

1 The Court served the Findings and Recommendations on Plaintiff and notified him that any
2 objections were due within 14 days. (Doc. 40 at 11.) The Court advised him that the “failure to file
3 objections within the specified time may result in the waiver of the ‘right to challenge the magistrate’s
4 factual findings’ on appeal.” (*Id.*, quoting *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir.
5 2014).) Plaintiff did not file objections, and the time to do so has passed.

6 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case. Having
7 carefully reviewed the matter, the Court concludes the Findings and Recommendations are supported
8 by the record and proper analysis. Thus, the Court **ORDERS**:

- 9 1. The Findings and Recommendations dated July 15, 2025 (Doc. 40) are **ADOPTED** in
10 full.
- 11 2. The action **SHALL** proceed only on Plaintiff’s claim against Defendant Michael A.
12 Felder for deliberate indifference to medical care in violation of the Eighth
13 Amendment, as stated in the second amended complaint (Doc. 36).
- 14 3. All other claims and defendants are **DISMISSED** from the action for failure to state a
15 cognizable claim.

16
17 IT IS SO ORDERED.

18 Dated: August 7, 2025


UNITED STATES DISTRICT JUDGE

20
21
22
23
24
25
26
27
28